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EXAMINER

MCCORMICK, GABRIELLE A

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Status of Claims

1. This action is in reply to the amendment filed on August 6, 2009.
2. Claims 1-4 and 6-8 have been amended.
3. Claims 1-8 are currently pending and have been examined.

Specification

4. The amendments to paragraphs [0027], [0033] and [0044] will not be entered because they contain new matter. Please note, although Applicant has attempted to obtain admission of amendments to the specification by arguing that a multi-user database management system "is well known in the art of databases", this is not an acceptable rationale for the amendments proposed. The Examiner relies upon the specification, as originally filed, to ascertain what Applicant had possession of. "New", as used herein, refers not to novelty, but rather to the specifics of the original disclosure.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
6. **Claims 1-8** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.
7. Applicant has extensively amended the claims. The following amendments are considered to contain new matter:
8. **Claims 1 and 4:**

- *Critical information about emergent issues and concerns are submitted prior to occurrence of said concerns:* The Examiner finds no evidence of use of the system prior to an occurrence of a concern. P[0037] discloses that an entry is specified as a “new issue or concern, addresses previous issues or concerns, or whether the submission is routine.”
- *Displaying said emergent issues and concerns to one or more peers for reviewing and validating...wherein said one or more peers validate said emergent issues and concerns by entering comments on said data collections interface...:* The specification does not disclose a displaying step for a peer reviewer, nor does the specification disclose how “emergent issues and concerns” are culled from the submitted issues and concerns that comprise routine and emergent issues. In other words, this amendment appears to require filtering of the submissions such that only the emergent ones are peer validated. The specification does not disclose “entering comments on said data collection interface”.
- *Populating a database with said submitted and peer reviewed issues and concerns by a database management system comprising one or more computer software programs:* The amendment to P[0027] and [0033] is not entered and no other support is found for populating as described in this limitation.
- *Classifying said report by said computer software programs based on said issues and said concerns raised in said report:* P[0037-0038]: originators categorize inputs. No disclosure is made for the computer software programs performing classification based on any criteria. P[0030]: “Provision is made for issue and concern classification” however, computer software programs are not disclosed as performing this function.
- With regards to “displaying steps”, P[0036] discloses that data “regarding each member...are optionally collected and displayable in conjunctions with viewing inputs from that member.” This is not sufficient disclosure to teach the displaying steps currently claimed (i.e., the report to management members and administrative members and the reply from the members).
- *Tracking of said reported emergent issues and concerns by the originator until said emergent issues and concerns stops being reported by the originator:* P[0030] discloses “topical tread

Art Unit: 3629

- tracking" and "closure dispositions that are controllable by the originator". "That is, an issue or concern is open until it stops being reported." This is not sufficient disclosure for the tracking claimed, nor does it disclose that tracking stops when the originator stops reporting.
9. **Claim 2:** The specification discloses at P[0023] that "complete implementation includes automated peer-review and comment such that issues...can be validated..." The specification does not further define how the "automated peer-review" is performed, therefore no support exists for performing it by using the data collection interface.
10. **Claim 3:** As previously discussed, "database management system" is new matter. Further, an "automated interface" is new matter.
11. **Claim 7:** The specification discloses one "data collection screen or form" where the originator may choose to be anonymous (P[0027]), therefore the dual recitation of "a user interface for collecting..." and "a data collection interface for submitting...based on an anonymous membership" appear to require two differing interfaces, one of which is new matter. Further, as previously discussed, "a database management system..." is considered new matter.
12. The following is a quotation of the second paragraph of 35 U.S.C. 112:
- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
13. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
14. Claims 1 and 4 are amended to provide for "proactively and periodically" entering (or reporting) issues and concerns. The specification at P[0021] states that the "current invention is a proactive means of enabling and possibly requiring each individual or key individuals in an organization to report periodically...". P[0037] allows a member to "specify whether an entry represents a new issue or concern, addresses previous issues or concerns, or whether the submission is routine." It is unclear from the disclosure how to understand a "proactive" entry or report. From P[0037],

Art Unit: 3629

one would understand a proactive enter to possibly be synonymous with entry of a new issue or concern. The Examiner will therefore understand the step of proactively entering or reporting issues to be illustrated by the entry of a new issue or concern.

15. Claims 1-6 contain unclear wording with regard to "issues and concerns":
16. Claim 1 states that issues and concerns are entered "about emergent issues and concerns prior to occurrence of said concern." It is unclear what concern the "said concern" refers to. A database is populated with "said submitted and peer reviewed issues and concerns". This term lacks proper antecedent basis. Classification is also performed based on "said issues and said concerns". Again, it is unclear which issues and concerns the classification is based upon as the claim discusses both "issues and concerns"; "emergent issues and concerns" and "said submitted and peer reviewed issues and concerns". The apparent interchangeability in the terminology becomes further unclear in the dependent claims as to which issues and concerns are referred to.
17. Claim 2 recites the terms "said critical emergent information" and "said collected issues and concerns", which lack proper antecedent basis.
18. Claim 4 recites "said collected and peer validated issues" and "said collected and peer validated concerns". As with claim 1, information is collected about "emergent issues and concerns", however, further in the claims (as well in claim 5), the language distinguishes the two (i.e., said issues and said concerns), and it becomes unclear whether separate information is collected about issues and separate information about concerns. The claim language is unclear as to the distinction (if any) of the information. For examining purposes, it will be understood that one information is collected for issues and concerns and that they are not differentiated.
19. Claims 1 and 4 state "displaying said report to said management members and administrative members of the organization for receiving a reply to said report from said management members..." and "displaying said reply from said management members and administrative members..." It is unclear what this limitation is meant to convey. It is further unclear as to whether a sole reply is received from the collective of the management and administrative members.

Claim Rejections - 35 USC § 103

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

21. **Claims 1-5 and 7-8** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferraro (US Pub. No. 2003/0088645) in view of Mesaros (US Pat. No. 7,181,419) in view of Hughes et al. (US Pub. 2002/0133395, hereinafter referred to as "Hughes") in view of Carlson et al. (US Pub. No. 2003/0135378, hereinafter referred to as "Carlson").
22. **NOTE:** The claims are examined as best understood by the Examiner in light of the above-mentioned rejections under 35 USC 112.
23. **Claims 1, 2, 4, 5, 7 and 8:** Ferraro discloses the following limitations:
- Anonymous member identification to the originator comprising a password; (P[0026]:reporting person established anonymous accounts that functions as personas; P[0030]: unique anonymous tag; P[0039]: confidential access number is a password.)
 - Data collection interface (P[0027])
 - Automated form (P[0042-0043])
 - Issues and concerns about emergent issues prior to occurrence (P[0003]; [0036] and [0037])
 - Populating a database with issues/concerns (P[0045])
 - Generating and classifying a report (P[0031]; [0036]; [0045])
 - Select recipient of report and transmit report (P[0036]; [0049] and [0051]: transmit reports to person of originator's choosing)
 - Tracking report until end of reporting (P[0024]: observe results of previous submissions; [0039])

Art Unit: 3629

- Sending report without filtering of information (P[0051]; the originator specifies recipient and the report is immediately emailed to the designated recipient, therefore, the report is sent to originator's designated recipient without filtering information by anyone else.)
24. Ferraro's anonymous reporting system discloses setting up an account with an access number/tag, but does not disclose an anonymous username.
25. Mesaros, however, discloses giving users a username and password so that they rename anonymous (i.e., a pseudonym) (C16; L31-41).
26. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have included anonymous usernames, as disclosed by Mesaros, in the system of Ferraro because usernames are old and well known, and it is obvious that Ferraro's system would further comprise a username as usernames are used extensively in account set-up.
27. Ferraro does not disclose peer review and validation by entering comments on a data collection interface.
28. Hughes, however, discloses an automated system where an originator submits a document for peer review where reviewer comments are attached to the submitted document. (P[0009]). Reviewers access the document through an interface (P[0053-0055]).
29. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have included peer review by entering comments via an interface, as disclosed by Hughes, in the system of Ferraro for the motivation of providing objective evidence regarding an incident. Ferraro discloses that a reporting person can be a witness or a user and that previous reports can be augmented. (P[0024]). It is therefore obvious to explicitly expand Ferraro's witness reporting to include the peer reviews disclosed by Hughes.
30. Note regarding claims 2 and 8: the recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. The phrase, "for increasing validity of

Art Unit: 3629

said collected issues and concerns” is construed to provide the intended use of the reviewing and validating by one or more peers. This limitation is disclosed by Hughes.

31. Ferraro does not explicitly disclose sending the report to management or administrative members, displaying the report and displaying a reply.
32. Carlson, however, also discloses an automated incident reporting system where the report is classified (P[0011]). Carlson discloses that the report is sent to a supervisory authority that assigns corrective action to “designated personnel, such as division managers” (P[0012]). Therefore, Carlson’s supervisory authority includes senior level management that assigns corrective action to a middle level manager. The supervisory authority is also understood to comprise administrative members is that this authority assigns corrective actions and reviews the corrective action to determine whether to close out the report. (P[0015]). The assigned personnel (i.e., the middle managers) complete the corrective action and record it in the database. (P[0013] and Fig. 7).
33. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included sending the report to management and addressing issues and concerns in a reply by management, as disclosed by Carlson, in the system disclosed by Ferraro, for the motivation of providing a method of allowing users to provide follow up to an incident (Ferraro; P[0032]) in a way that uniformly tracks incidents that leads to prevention of similar incidents across a company. (Carlson; P[0009]). As Ferraro discloses emailing reports, it is obvious that the report would be displayed to the recipient and the recipient would reply to the report in order to implement corrective action to address the issue.
34. **NOTE:** The Examiner asserts that the type of information provided to the interface and used to generate a report is **nonfunctional descriptive data** and is not functionally involved in the steps recited. **The data would be collected and the report generated regardless of the descriptive nature of the data (information).** Thus, this descriptive data will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Art Unit: 3629

35. **NOTE:** The Examiner asserts that the descriptive nature of the report recipients is **nonfunctional descriptive data** and is not functionally involved in the steps recited. **The report would be sent, displayed and responded to regardless of the descriptive nature of the report recipient.** Thus, this descriptive data will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).
36. **Claim 3:** Ferraro discloses that the administrator conducts statistical analysis, creates charts and prints custom reports (P[0040]) but does not disclose middle management presenting a summary to final recipients.
37. Carlson, however, discloses middle managers assigned corrective action responsibility by a supervisory authority (P[0012]). The corrective actions and completion are recorded via a user interface and stored in a database. The supervisory authority (i.e. a final recipient) reviews the incident report to determine adequacy of the corrective action (P[0019]). Thus, the final recipient reviews a summary that combines inputs from the originators and middle management's addressing of the concerns and issues.
38. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have included a summary report to final recipients that includes middle management actions, as disclosed by Carlson, in the system of Ferraro for the motivation of providing a review of the incident and actions taken by an authority that is able to determine the adequacy of the actions such that similar incidents will be prevented.
39. **Claim 6** is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferraro (US Pub. No. 2003/0088645) in view of Mesaros (US Pat. No. 7,181,419) in view of Hughes et al. (US Pub. 2002/0133395, hereinafter referred to as "Hughes") in view of Carlson et al. (US Pub. No. 2003/0135378, hereinafter referred to as "Carlson") in further view of Kotsis et al. (US Pub. No. 2003/0004959, hereinafter referred to as "Kotsis").
40. **Claim 6:** Ferraro does not disclose consolidating said database with other databases.

Art Unit: 3629

41. Kotsis, however, discloses that organizations create consolidated databases which collect data from several other databases. (P[0003]).
42. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have included consolidating databases, as disclosed by Kotsis, in the system of Ferraro for the motivation of enhancing the ability to highlight trends and improve decision making. (Kotsis; P[0003]).

Response to Arguments

Applicant's arguments with respect to claims 1, 4 and 7 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gabrielle McCormick whose telephone number is (571)270-1828. The examiner can normally be reached on Monday - Thursday (5:30 - 4:00 pm).

Art Unit: 3629

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/G. M./
Examiner, Art Unit 3629

/JOHN G. WEISS/
Supervisory Patent Examiner, Art Unit 3629